

KOMATSU - 10/663,913
Client/Matter: 008312-0305989

REMARKS

Reconsideration and the timely allowance of the pending claims, in view of the following remarks, are respectfully requested.

Prior to this Amendment, claims 1-21 were pending. By this Amendment, claims 13-16 and 18-21 have been canceled without prejudice or disclaimer of the subject matter contained therein. Claims 22-29 are newly added. Accordingly, after entry of this Amendment, claims 1-12, 17 and 22-29 will remain pending. Claims 1, 2, 7, 12, 17, 22 and 26 are independent claims.

In the Office Action, claim 1 was rejected under 35 U.S.C. § 102(b) as being anticipated by US 6,070,804 to Miyamoto (hereinafter called "Miyamoto"). Claims 2-12 and 17 were rejected under 35 U.S.C. §103(a) as being unpatentable over Miyamoto. The Applicant respectfully traverses these rejections for the reason presented below.

In the Office Action, the Examiner indicated that claims 13-16 and 18-21 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The Applicant would like to thank the Examiner for the indication of allowable subject matter.

The Applicant respectfully points out that new claims 22-29 recite the content of claims 13-16 and 18-21 but are presented such that these claims include all of the limitations of the base claims and intervening claims from which claims 13-16 and 18-21 formerly depended. Specifically, claim 22 corresponds to former claim 13. Claims 23-25 repeat, for the most part, the substance of claims 14-16, but they have been modified to depend from claim 22. Similarly, claim 26 corresponds to claim 18. Claims 27-29 correspond, for the most part, to claims 19-21 except that they have been modified to depend from claim 26.

With respect to these changes, the Applicant respectfully points out that the substance of each of the claims was presented in the original claims. Since these claims are being submitted to capture the allowable subject matter and, therefore, are not being presented in response to a rejection of the claims, the Applicant respectfully submits that the presentation of these claims is not narrowed or restricted either literally or under the doctrine of equivalents. Accordingly, the Applicant intends for new claims 22-29 to have the broadest reasonable interpretation under the law, unfettered by any narrowing amendments responsive to an Examiner's rejection.

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II. Claim Rejections - 35 U.S.C. § 102(b)

In the Office Action, claim 1 was rejected under 35 U.S.C. §102(b) as being anticipated by Miyamoto. The Applicant respectfully disagrees with the rejection and, therefore, respectfully traverses same.

Miyamoto discloses a non-contact IC card with a monitor for source power where operation of the IC card includes a first checking step (S2) and a second checking step (S8) (*see* Fig. 3). Miyamoto discusses that the second checking step (S8) checks a voltage level during execution of a writing of data based on the output from a comparison circuit (column 6, line 65 - column 7 line 12). Miyamoto, however, does not discuss that the second checking step (S8) checks a voltage level after the writing of the data is terminated.

Thus, Miyamoto fails to teach, among other features recited by claim 1, "a control section which detects by the voltage detecting section the voltage level of the operating voltage obtained after the writing of the data to the memory executed by the write executing section is terminated, and which executes again the writing of the data to the memory if the detected voltage level of the operating voltage is not a predetermined voltage level." Accordingly, Miyamoto does not teach each and every limitation in claim 1 and cannot anticipate claim 1. Thus, the rejection respectfully should be withdrawn.

III. Claim Rejections - 35 U.S.C. § 103

In the Office Action, claims 2-12 and 17 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Miyamoto. The Applicant respectfully disagrees with this rejection and, therefore, respectfully traverses the same.

As shown above, Miyamoto does not teach that the second checking step (S8) checks a voltage level after the writing of the data is terminated. Miyamoto also provides no motivation or suggestion to modify to a control section to check a voltage level after the writing of the data is terminated.

In addition, in Miyamoto, when the first or second checking step (S2, S8) determines that a voltage level is "LOW", writing of data is prohibited (S4, S11) and the data writing process is terminated as being impossible or incomplete (S5, S12) (Fig. 3). This suggests an operation quite different from the claimed invention. Miyamoto provides no discussion or teaching of a control section which executes subsequent processing of a first checking

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section, a write executing section and a second checking section, after waiting for a predetermined period of time. The Applicant respectfully points out that there is nothing in Miyamoto or the prior art generally to suggest, in the field of IC cards, that when a data writing process is determined to have failed, an IC card attempts to execute the data writing process again after waiting for a predetermined period of time. Thus, the Applicant respectfully submits that Miyamoto fails to teach or suggest the IC card recited by claims 2, 7, 12 and 17. Claims 3-6 depend on claim 2 and recite further limitations. Similarly, claims 8-11 depend on claim 7 and recite further limitations. Accordingly, for at least the same reasons, the rejection with respect to claims 3-6 and 8-11 also should be withdrawn.

In view of the foregoing, Applicant respectfully submits that the Examiner reconsider the rejections and objections of the claims, withdraw the rejections and objections, and pass this application quickly to issue.

If there are any fees due for entry of this submission that are not otherwise accounted for, Applicant asks that any such fees be charged to our Deposit Account No. 03-3975, with reference to Order No. 008312/0305989.

Respectfully submitted,

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